immorality. See Lord St. Leonards in *In re Connor*, 2 Jo. & La T. 456, 459–60. But at least one exception has since been established in the case of a testamentary gift by the putative father, on the ground that since the gift dates from death the begetting of bastards is not encouraged. *Occleston* v. *Fullalove*, L. R. 9 Ch. App. 147, 162; *In re Hastie's Trusts*, 35 Ch. Div. 728. Here a difference was taken upon another ground. If the bastard was described as the child of the mother only, it was ascertainable and could take. *Gordon* v. *Gordon*, 1 Mer. 141; *Evans* v. *Massey*, 8 Price 22. But, if the description specified the father as well as the mother, it was said that the child must show a reputation as begot by the particular father. *Wilkinson* v. *Adam*, 1 Ves. & B. 422. For without such reputation the child was *filius nullius* and the law would not inquire into the scandal. See 2 JARMAN, WILLS, 6 Eng. ed., 1765. Hence, if the child is *en ventre sa mère* at the testator's death the gift would fail, since a child must be *in esse* during father's life to acquire the necessary reputation. *Earle* v. *Wilson*, 17 Ves. 529. See *Blodwell* v. *Edwards*, Cro. Eliz. 509, 510; *Gordon* v. *Gordon*, 1 Mer. 141, 152. *Contra*, *In re Connor*, 2 Jo. & La T. 456, 460. See *Occleston* v. *Fullalove*, L. R. 9 Ch. App. 147, 164. However, the fiction of *filius nullius* is in these days an unstable pediment for any doctrine. The result should rather be rested on the practical difficulty of proof, a question of degree to be determined in each case. See *Occleston* v. *Fullalove*, L. R. 9 Ch. App. 147, 158. But this difficulty assumes that the testator desires such proof. Usually however he states his paternity simply as matter of belief and not by way of limitation. See 2 JARMAN, WILLS, 6 Eng. ed., 1770, 1781.

NATURALIZATION — FILIPINOS. — A native Filipino applied to be made an American citizen under R. S. XXX, § 2169, as amended in 18 STAT. AT L. 318, and under the Act of June 29, 1906, 34 STAT. AT L., c. 3592, § 30. *Held*, that the petition be granted. *In the matter of Marcus Solis*, U. S. Dist. Ct. for Hawaii, Mar. 25, 1916.

A native Filipino applied under the same provisions to be made an American citizen. *Held*, that the petition be denied. *In the matter of Alfred Ocampo*, U. S. Dist. Ct. for Hawaii, Dec. 30, 1916.

Section 2169, which was in force prior to the Act of June 29, 1906, limits the provisions for naturalization to "aliens being free white persons and to aliens of African nativity and to persons of African descent." But § 30 of the Act of June, 1906, provided that "all applicable provisions of the naturalization laws . . . shall apply to and be held to authorize the admission to citizenship of all persons not citizens who owe permanent allegiance to the United States." As the petitioners come within the description, they are entitled to citizenship unless the former section modifies this provision. Being neither expressly repealed nor inconsistent with the Act of June, it must, by the rules of statutory construction, be still in force. *Bessho* v. *U. S.*, 178 Fed. 245. See 1 LEWIS' SUTHERLAND STATUTORY CONSTRUCTION, 2 ed., 461–64. It has been argued, however, that as § 30 does not refer to aliens, and as § 2169 only refers to aliens, it cannot be considered an "applicable" limitation. The wording of the statutes certainly justifies such an argument. But the history of § 30 shows that its purpose was to avoid the difficulty of admitting Porto Ricans to citizenship because they were not aliens, could not renounce allegiance to a foreign sovereign, and were not, therefore, within the Act. To extend the rights of citizenship to all emigrants of our insular possessions regardless of race was clearly not the intention of Congress. So it has been held concerning the limitation of § 2169 on other clauses, with wordings similar to § 30. *In re Alverta*, 198 Fed. 688; *In re Lampitoe*, 232 Fed. 382.

PATENTS — PROCEDURE — WHAT CONSTITUTES AN INTERLOCUTORY DECREE. — In an action on two separate patents, a decree was in favor of the plaintiff as to one patent, with an order for an accounting, but in favor of the de-

fendant as to the other. Section 129 of the Federal Judicial Code provides that appeals from interlocutory decrees must be taken within thirty days. The plaintiff appeals from the part of the decree adverse to him more than thirty days after its entry. *Held*, that the decree was interlocutory and the appeal is barred. *Stromberg Motor Co.* v. *Arnson*, 56 N. Y. L. J. 1599 (Circ. Ct. of App., 2nd Circ.).

When the judgments in an action are absolutely unconnected, there may be partial appeals. *Hall* v. *Bank of Virginia*, 14 W. Va. 584, 614. So the appeal, in the principal case, can only be barred if the decree appealed from is considered interlocutory. An interlocutory decree has been defined as "an adjudication or order, made upon some point arising during the progress of a cause, which does not determine finally the merits of the question or questions involved." See 1 BOUVIER, LAW DICTIONARY, 3 rev., 805. The question of what constitutes an interlocutory decree is especially difficult when various issues are raised in the same suit. It has been held that a decree which decides the merits is final, even though an accounting not asked for in the pleadings and merely incidental to the relief is still necessary. *Forgay* v. *Conrad*, 6 How. (U. S.) 201. So a decree which dismisses the action as to some parties, so that they have no further interest in the action, but retains the case as to other parties, is so far final as to allow a separate appeal. *Hill* v. *Chicago & Evanston R. Co.*, 140 U. S. 52. However the weight of authority is in accord with the principal case, that a decree dismissing some claims in an action and giving relief by an accounting as to others, but dismissing none of the original parties, is entirely interlocutory. *Western Electric Co.* v. *Williams-Abbott Electric Co.*, 108 Fed. 952; *Ex parte National Enameling Co.*, 201 U. S. 156. *Contra*, *Historical Pub. Co.* v. *Jones*, 231 Fed. 784. Under the previous federal statute which allowed appeals from interlocutory decrees only when an injunction was granted or continued, a decree denying an injunction was treated as final, in order that there need not be a separate accounting, if it was reversed. *Scriven* v. *North*, 134 Fed. 366. The present statute removes the necessity for such construction by allowing an appeal from an interlocutory decree if taken in time. But when the period for appeals is as short as in the Judicial Code, this uncertainty as to what constitutes an interlocutory decree is a cause of great hardship; and it seems that the term should be more accurately defined by statute, or that the courts should be given power to allow appeals, in their discretion, after the time has expired.

PRESUMPTIONS — PRESUMPTION OF DEATH FROM SEVEN YEARS' ABSENCE WITHOUT NEWS — SUBSTITUTION OF ACTUARIAL TABLE. — William died in 1915. Thomas, his brother, disappeared in 1872 at the age of thirty, and has not been heard from since 1894. Thomas' children apply for administration of his estate. If Thomas predeceased William, the petitioners will share *per capita* in William's estate as nephews and nieces; if Thomas survived William, they will take *per stirpes* from Thomas' share. *Held*, that from mortality tables confirmed by family longevity Thomas both survived William and is now dead, and that administration be granted. *The Goods of Thomas Rowe*, 56 N. Y. L. J. 1669 (Surrogates' Ct.).

The presumption of death after seven years' absence from home without news is nothing more than the cessation of the presumption of continued life at the seventh year. See THAYER, PRELIMINARY TREATISE ON EVIDENCE, 323. It is based on two elements. First, the natural mortality of man in the lapse of time. *Cf. Martinez* v. *Succession of Vives*, 32 La. Ann. 305, 307. See SWINBURNE, TESTAMENTS, pt. 6, s. 13, 2. Second, the probability of continued communication from any one who is not dead. *Cf. Traveler's Ins. Co.* v. *Rosch*, 23 Ohio Cir. Ct. 491. Like any presumption it is rebuttable by explaining away its basic inferences. Thus the fact that the alleged deceased was a fugitive from justice might explain why he conceals his whereabouts. See *Mutual Ben-*